IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7868 of 2001

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

BACHUBHAI RAMBHAI MER - Respondent(s)

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Appearance :

MR IM PANDYA, AGP, for Petitioner(s) : 1 - 2.
MS SEJAL K MANDAVIA for Respondent(s) : 1,
MR HM PRACHCHHAK for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 27/01/2006

ORAL JUDGMENT

1. This petition is directed against the award dated 7th September 2000 passed by the Labour Court, Junagadh, in Reference (LCJ) No.233 of 1995 whereby the petitioner was

directed to reinstate the respondent with continuity of service and full back wages.

2. The short facts of the case are that the respondent was working with the petitioner Department. He was working as Rojamdar in a particular project. When the work of that particular project was over, the respondent was informed to resume duty on the new project. However, the respondent has refused to accept the registered post and did not report for work. Thereafter the respondent raised a dispute which was referred to the Labour Court and resulted into the aforesaid award.

3. Learned counsel for the petitioner submitted that the Labour Court has not considered the written statement on the ground that no documentary evidence was produced on record. Mr.Pandya submitted that there are documents to show that even though the respondent was called for duty, he did not report for the same. He has placed certain documents on record and submitted that the impugned award requires to be quashed and set aside.

4. Ms Mandavia, learned counsel appearing for the respondent submitted that the Labour Court has considered

all the documents on record and the petitioner cannot place any other documents at this stage. She submitted that the Labour Court has found that in spite of opportunity the petitioner failed to produce the documentary proof on record and therefore no interference may be cause in this petition.

5. As a result of hearing and perusal of the record, it is found that the documents produced by the petitioner in these proceedings are vital documents. At the same it would not be appropriate for this Court to go into those documents and decide the matter on merits. Therefore, it would be appropriate that the matter be remanded to the labour Court for fresh decision in view of the documents produced by the petitioner.

6. It is required to be noted that while issuing Rule in the year 2001 this Court had not stayed the award of the Labour Court. However, the respondent has not reported for duty after February 2002 till the year 2005 and it is only after the subsequent order dated 5.12.2005 of this Court the respondent has reported for duty.

7. In the premises aforesaid, this petition is allowed. The impugned award is quashed and set aside. The matter is remanded to the Laobur Court for fresh decision after allowing the petitioner to produce on record the relevant evidence and after giving opportunity to the respondent to rebut such evidence.

8. The Labour Court shall hear and decide the matter within a period of six months from the date of receipt of writ of this Court. The respondent workman shall continue in service till the decision of the Labour Court. In view of the fact that the petitioner has not produced the relevant evidence before the Labour Court at the relevant time, the petitioner shall pay a sum of Rs.1500/- to the respondent by way of costs. Rule is made absolute accordingly.

[K.S. JHAVERI, J.]

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